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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/020,515	12/07/2001	Guy G. Riddle	18602-06587	8767

758 7590 06/13/2005

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EXAMINER

JAROENCHONWANIT, BUNJOB

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/020,515

Applicant(s)

RIDDLE, GUY G.

Examiner

Bunjoo Jaroenchonwanit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/7/03</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The application has been fully considered, the rejections are as stated below. This Office action is in response to the communication filed 07/29/03. Since the filing date correction petition, filed under 37 CFR 1.10(c) on July 28, 2003, is granted, the rejection under 35 USC § 251 is withdrawn. Applicant intended to surrender the original patent is acknowledged.

Although, surrendering of the original patent is no longer required, applicant is welcome to do so, if desired. Applicant, however, may simply respond to the requirement that “the requirement is moot in view of the implementation of the instant amended rule change” (See 69 Fed. Reg. 56521), “Amended §1.178 applies retroactively to all pending applications. For those applications with an outstanding requirement for the physical surrender of the original letters patent, applicant must timely reply that the requirement is moot in view of the implementation of the instant amended rule. Such a reply will be considered a complete reply to any requirement directed toward the surrender of the originals letters patent. It is to be noted that the Office will not conduct a search to withdraw Office actions where the only outstanding requirement is compliance with the physical surrender of the original letters patent.”

2. Since, there are four-continuation reissue applications have been filed and copending with this application. Applicant is required to amend the specification to include cross-references of all copending, continuation application. (See MPEP § 1451 [R-2]).

### ***Election/Restrictions***

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-16, drawn to a method and apparatus for optimizing transmission, classified in class 709, subclass 204, 227.

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- II. Claims 17-20, drawn to a method and circuitry apparatus for merging  
teleconference call, classified in class 370, subclass 261-265.

The inventions are distinct, each from the other because of the following reasons:

- Inventions II and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as allowing a communicating computer to optimize transmission by establishing multicast channel for broadcast communication among multiple endpoints, by querying capability of multiple end points to determine whether they are capable of receiving the broadcast transmission, if they are incapable, i.e., no positive acknowledge detect from two or more end nodes the cancel the broadcast transmission. Whereas, the invention II has separate utility such as having a circuitry for receiving merge request messages, which identify the other endpoints from a common member transmitting join message to member and establishing a teleconference call. See MPEP § 806.05(d).
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and the search required for each of Groups II and I is not required for each of the other Groups, restriction for examination purposes as indicated is proper.

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6. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

7. Because newly submitted claims 17-20 directed to an invention that is independent or distinct from the invention originally claimed for the above reasons. Since applicant has received an action on the merits for the originally presented invention (claims 1-15), therefore, this invention has been constructively elected by original presentation for prosecution on the merits. Since claim 16 is belong to the invention Group I, it is also being examined.

Accordingly, claims 17-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03 and MPEP § 1450.

8. The reissue oath/declaration filed with this application is defective because the error, which is relied upon to support, the reissue application is not an error upon which a reissue can be based. See 37 CFR 1.175(a)(1) and MPEP § 1414.

9. Claims 1-20 are objected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

Receipt of an appropriate declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

“At least one error being relied upon as the basis for reissue is the failure to claim or further claim subject matter disclose in the specification pertaining to terminating transmission based on predetermined condition in an acknowledgement message is met.”

The nature of the defect(s) in the declaration is set forth in the discussion above in this

Office action.

10. Claims 1-16 are allowed.

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11. The following is an examiner's statement of reasons for allowance:

The prior art of record, singly or in combination fails to teach a combination of features and limitations enable optimizing point-to-point transmission automatically as claimed, therein. Specifically, *inter alia*, they fails to teach an endpoint for establishing multicast transmission channel for broadcast communication data among multiple endpoints, by querying capability of a plurality of other endpoints to determine whether they are capable of receiving the broadcast communication data. Further in combination of using specific form of acknowledgement for indication of the other endpoints capable of receiving and deactivating the broadcast transmission of the multicast channel, i.e., address, and in the event of two or more endpoints are incapable of receiving broadcast transmission over the multicast communication channel, i.e., no positive acknowledge detected from more than two endpoints, or a predetermined conditions of the acknowledgement message is met, then terminates the broadcast communication data over the multicast channel.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

12. This application is in condition for allowance except for the following formal matters:

Cancellation of claims 17-20;

Applicant is reminded that in the event of canceling claims, in accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

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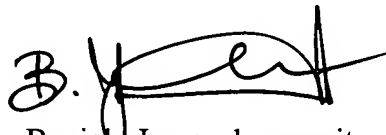
Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bunjob Jaroenchonwanit whose telephone number is (571) 272-3913. The examiner can normally be reached on 8:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bunjob Jaroenchonwanit  
Primary Examiner  
Art Unit 2143

/bj  
6/7/05